

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

JOHN DOE,
Plaintiff,

v.

Case No.: 6:14-cv-00052-NKM

WASHINGTON AND LEE UNIVERSITY,
Defendant.

DEFENDANT'S MOTION TO DISMISS

Defendant, Washington and Lee University, by counsel, pursuant to Fed. R. Civ. Proc. 12(b)(6), does hereby move to dismiss the Complaint filed herein on the grounds that follow and as more fully set forth in Defendant's Memorandum of Law in Support of its Motion to Dismiss:

1. Count One fails to state a cause of action because plaintiff does not allege sufficient facts to support a claim under Title IX.
2. Count Two alleging breach of contract fails to state a cause of action because Defendant's Handbook and Sexual Misconduct Policy is not an enforceable contract, and even if it were Plaintiff has not alleged sufficient facts to show that defendant breached the policy.
3. Count 3 alleging good faith and fair dealing fails to state a cause of action because Plaintiff has not established that an enforceable contract exists between the parties, that such a contract was breached by defendant, or that Virginia law recognizes an independent cause of action for good faith and fair dealing.
4. Count 4 fails to state a cause of action because Virginia law does not recognize an independent cause of action for Estoppel or Reliance.

5. Count 5 fails to state a cause of action because Plaintiff fails to articulate an appropriate standard of care to support a negligence claim, and such a claim cannot lie where a contract remedy is available.

For the reasons stated above, Defendant respectfully requests this Court to dismiss Plaintiff's Complaint with prejudice.

Respectfully submitted,

Washington and Lee University

By counsel:

s/ Robert Craig Wood

Robert Craig Wood

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CERTIFICATE OF SERVICE

I, R. Craig Wood, certify that on this 12 day of January, 2015, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to Plaintiff by electronically serving his counsel of record, and also by electronic mail.

/s/ Robert Craig Wood

Robert Craig Wood